

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2009-____-S

IN RE: Petition of the Office of Regulatory)	PETITION OF THE OFFICE OF
Staff for a Declaratory Order Against)	REGULATORY STAFF FOR AN
Mark Cochcroft Requiring Certification)	ORDER REQUIRING CERTIFICATION
as a Sewer Utility and the Posting of a)	AS A SEWER UTILITY AND
Performance Bond)	POSTING OF A PERFORMANCE BOND
_____)	

The Office of Regulatory Staff, by filing this petition, would respectfully show and request of the Commission:

1. That the Public Service Commission of South Carolina (“the Commission”) is a state agency with its business offices located in Columbia, South Carolina and that the Commission is responsible for the regulation of water and wastewater utilities operating for compensation as set forth in S.C. Code Ann. § 58-5-10 et seq. (Supp. 2008), and that the Office of Regulatory Staff (“ORS”) is a state agency charged with the duty to represent the public interest pursuant to S.C. Code Ann. § 58-4-10 (Supp. 2008), *et seq.* and to make inspections, audits, and examinations of public utilities regarding matters within the jurisdiction of the Commission.

2. That upon information and belief Mark Cochcroft and/or M.A.C. CON, INC. (“Cochcroft,” or “Respondent”) with the address of 137 Cherry Lane, Gilbert, SC 29054 charges a sewer tap fee to residents in Lexington County, South Carolina to tap into the Town of Lexington’s, sewer collection and/or sewer disposal system.

3. That Respondent is providing sewer service to residents in Lexington County, South Carolina for compensation and the rates charged for sewer tap connections by Respondent have not been established, approved, or reviewed by the Commission.

4. That the sewer tap connection fee charged by Respondent meets the definition of a “public utility” as that term is defined in S.C. Code Ann. § 58-5-10(4) in that it is a “corporation or person furnishing or supplying in any manner gas, heat (other than by means of electricity), water, sewerage collection, sewerage disposal....to the public, or any portion thereof, for compensation.”

5. That Respondent is not certificated by the Commission as a public utility lawfully authorized to provide, supply, or furnish sewer service for compensation in the State of South Carolina. As an uncertificated sewer company, Respondent has never filed any of the documents, bonds, reports, or other instruments required of such companies under South Carolina law with either the ORS or the Commission.

6. That upon information and belief, Respondent is charging a sewer tap fee to residents in Lexington County, South Carolina to tap into the Town of Lexington’s sewer collection and/or sewer disposal system. The Respondent did not seek the Commission’s approval for the schedule of sewer tap rates and fees charged to the customers.

7. That the Commission has jurisdiction over Respondent’s charges for sewer tap fees pursuant to S.C. Code Ann. § 58-5-10. Further, although Respondent has not consented to jurisdiction of the Commission, the Commission has the right, before the granting of authority or consent to any water or sewer utility regulated by the Commission for the operation, maintenance, or acquisition of any facility or system, to prescribe that the utility file with the Commission a bond with sufficient surety payable to the Commission and conditioned upon the provision by the utility of adequate and sufficient service. S.C. Code Ann. § 58-5-720 (Supp. 2008). If the Commission finds that Respondent is charging a sewer tap fee to residents in Lexington County, South Carolina for compensation it is then, by statutory definition, a “public utility” and subject to the jurisdiction of this Commission. S.C. Code Ann. § 58-5-10(4) (Supp. 2008).

8. That, therefore, Respondent must apply to the Commission for a Certificate of Public Convenience and Necessity to charge tap fees to the residents in Lexington County, South Carolina for

sewer service. Further, Respondent must have the rates and fees charged to the customers of these systems approved by the Commission under the authority granted to the Commission under § 58-5-210 (1976). Additionally, Respondent must provide to the Commission a performance bond under the provisions of S.C. Code Ann. § 58-5-720 and such other information and reports as the Commission deems necessary.

WHEREFORE, the ORS prays that the Commission:

1. Inquire into the Respondent's charging a sewer tap fee to residents in Lexington County, South Carolina for sewer service.

2. If the Respondent charging a sewer tap fee to residents in Lexington County, South Carolina is found to be a public utility under S.C. Code Ann. § 58-5-10 *et seq.*, order Respondent or such other proper person or entity to:

(a) apply pursuant to 26 S.C. Code Ann. Regs. 103-504 (Supp. 2008) for a Certificate of Public Convenience and Necessity to operate the facility,

(b) provide a bond pursuant to S.C. Code Ann. § 58-5-720 and that such bond be in an amount as required under 26 S.C. Code Ann. Regs. 103-512.3.1 (Supp. 2008), and

(c) seek approval of rates to be charged for the provision of the utility services.

3. Order Respondent to comply with Commission rules and regulations and file information identifying the Authorized Utility Representative of that company and to file annual reports with the Commission as mandated by 26 S.C. Code Ann. Regs. 103-512.1 (Supp. 2008).

4. Order Respondent to cease charging Respondent's current sewer tap fees.

5. Order Respondent to file an application for a rate case seeking approval of rates pursuant to 26 S.C. Code Ann. Regs. 103-503 (Supp. 2008) or upon Respondent filing an establishment case to establish a new utility.

6. Order any additional action or relief which the Commission may deem necessary.



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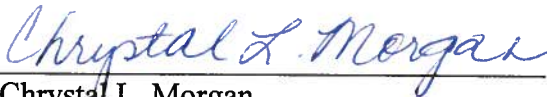
November 25, 2009
Columbia, South Carolina

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-____-S

IN RE:)	
Petition of the Office of Regulatory Staff for a)	CERTIFICATE OF
Declaratory Order Against Mark Cochcroft)	SERVICE
Requiring Certification as a Water Utility and the)	
Posting of a Performance Bond)	

This is to certify that I, Chrystal L. Morgan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **PETITION** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Mark Cochcroft and/or M.A.C. CON, Inc.
137 Cherry Lane
Gilbert, SC 29054



Chrystal L. Morgan

November 25, 2009
Columbia, South Carolina